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Commonwealth of Virginia

RESPONSE TO PETITION FOR RULEMAKING

Check one: ☒ **Initial Agency Notice** ☐ **Agency Decision**

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Agency Name: Department of Environmental Quality

Chapters affected:

VAC No. <i>(e.g., 4 VAC 20-490):</i>	Chapter Name <i>(e.g., Regulations Pertaining to Sharks):</i>
9 VAC 25-720	Water Quality Management Planning Regulation

Statutory Authority: State mandate in the Code of Virginia, §62.1-44.15, is the source of legal authority identified to promulgate these amendments. The promulgating entity is the State Water Control Board.

Name of petitioner: Mayor Richard L. Fox, Town of Craigsville, Virginia

Nature of petitioner's request: The Town of Craigsville has requested an amendment of the Water Quality Management Planning Regulation (9 VAC 20-720) to assign nutrient waste load allocations for a new wastewater treatment plant. The Town currently operates a 0.25 MGD wastewater plant that provides final treatment using spray irrigation under a Virginia Pollution Abatement permit (no surface water discharge). The existing plant is not a “significant discharger” for the purpose of assigning nutrient waste load allocations, and for that reason was not included in the Water Quality Management Planning Regulation amendments (9 VAC 25-720) adopted by the State Water Control Board in 2005. Further, since there is no surface water discharge, the plant has no design capacity as a nonsignificant discharger would. As a result, the plant has zero nutrient waste load allocations, and would be identified as a new discharge required to completely offset the additional nutrient load if it discharged to State waters.

The Town recently applied for a VPDES discharge permit for a new 0.435 MGD plant, and has petitioned for nutrient waste load allocations as follows:

- Total Nitrogen = 10,600 lbs/yr (based on 0.435 MGD and 8.0 mg/l annual average TN concentration)
- Total Phosphorus = 1,325 lbs/yr (based on 0.435 MGD and 1.0 mg/l annual average TP concentration)

INITIAL AGENCY NOTICE

Agency's plan for disposition of the request: The Department is public noticing receipt of the petition and seeking public comment on the petition. Upon close of the public comment period, comments received will be reviewed and a decision made on initiating a rulemaking or placing the petition on the Board's next meeting agenda for their consideration.

Comments may be submitted until July 31, 2006

AGENCY DECISION

☐ Request Granted

☒ Request Denied

Statement of reasons for decision: The denial of Craigsville's petition for nutrient waste load allocations, was based on these factors:

1. Craigsville's wastewater treatment plant was a no-discharge facility during the rulemaking for nutrient discharge control regulations. Therefore, it was neither a significant discharger to be assigned nutrient waste load allocations, nor was it eligible to receive a "permitted design capacity" as a non-significant discharger to surface waters would.
 2. Craigsville applied for a VPDES permit on November 4, 2005. As a result, the facility is considered a new discharge under the Nutrient Credit Exchange Program law. As a new facility authorized to discharge by a VPDES permit first issued after July 1, 2005, per Virginia Code §62.1-44.19:15.A.4., Craigsville must:
 - acquire waste load allocations sufficient to offset the delivered nutrient loads (i.e., nitrogen and phosphorus waste load allocations for the new plant are equal to zero);
 - at a minimum, install biological nutrient removal technology.
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